

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KEVIN MURRAY,

Plaintiff,

-against-

ORDER

CV 09-4120 (ADS) (ARL)

TOWN OF NORTH HEMPSTEAD, et al.,

Defendants.

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LINDSAY, Magistrate Judge:

By order dated November 15, 2010, the court reserved decision on the defendants' motion for a protective order with respect to Town Supervisor Kaiman's and Town Councilman Ferrara's depositions. Although the defendants argued that Supervisor Kaiman and Councilman Ferrara only received information from others, they did not submit affidavits from the individuals indicating that they had no first-hand knowledge of the underlying facts. After the court issued its order, the defendants withdrew their objection to Supervisor Kaiman's deposition and have now submitted an affidavit from Councilman Ferrara. In his affidavit, Councilman Ferrara attests to the fact that he was briefed on the proposed settlement by the Town Attorney. He further indicates that although he abstained from the vote to accept or reject the settlement, he has no personal knowledge concerning the facts or circumstances surrounding the plaintiff's separation from Town employment or the plaintiff's current claims against the Town. Notwithstanding Ferrara's contention, the plaintiff has indicated that he has already taken Supervisor Kaiman's deposition and it appears that Mr. Ferrara is the only person that he can question concerning the discussions amongst the Board members, the Supervisor, and the Town Attorney regarding his settlement agreement and the meeting. Accordingly, the defendants' application is denied. The defendants are directed to make Mr. Ferrara available for a deposition on or before January 7, 2011.

Dated: Central Islip, New York
December 15, 2010

SO ORDERED:

/s/
ARLENE R. LINDSAY
United States Magistrate Judge